

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 1/11-14/2000
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NUMBER: 5-84-591-A1

APPLICANT: City of Santa Monica

PROJECT LOCATION: Portion of the Ocean Park Redevelopment Area bounded by Bay Street, the Pacific Ocean, Barnard Way and Neilson Way (more specifically, Barnard Way frontage road at the south curve, adjacent to 3356 Barnard Way), in the City of Santa Monica

DESCRIPTION OF ORIGINAL PERMIT: The Ocean Park Beach Improvement Plan Includes the creation of a Linear Park and 21 preferential* short-term parking spaces along Barnard Way, an expanded 4-acre Central Park with a children's playground, food concession, picnic tables, and restrooms at the foot of Ocean Park Blvd., a 1.5-acre South Park at the southern end of the beach with a children's play area and a shoreline accessway for physically handicapped persons, the redesign and separation of the bike/skate path from the pedestrian promenade, relocation of entrances and exits to the 2,400-space parking lot and various street system changes designed to improve vehicular and pedestrian access, circulation and safety.

DESCRIPTION OF AMENDMENT: Amend project description requiring 21 preferential* short-term parking spaces along Barnard Way to instead provide 13 of the 21 short-term public spaces at the City's parking lot No. 9 on Neilson Way.

*In this instance "preferential" refers to parking in support of short-term use of the recreational uses near the beach.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, as conditioned is consistent, with the requirements of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: CDP's 5-84-591, A-318-76, 5-83-002; City of Santa Monica's certified LUP.

Procedural Note: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or,
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change to the project as originally described. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION

I move that the Commission approve CDP #5-84-591A1 pursuant to the staff recommendation.

Staff recommends a YES vote. Passage of the motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the

provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS**1. Public Parking Plans**

Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, plans showing a minimum of an additional 13 metered (3-hour limit) public parking spaces within City parking lot No. 9, on Neilson Way.

2. Construction of Parking Spaces

The 13 additional metered public parking spaces with Lot No. 9 shall be installed and in operation within 90 days from the date of Commission approval of this permit. The parking spaces shall conform to the reviewed and approved plans identified in special condition no. 1 of this permit.

3. Future Changes

With the acceptance of this permit the applicant agrees that any change in the hours or days of operation of the 13 short-term (3-hour minimum) public parking spaces within City parking lot No. 9, on Neilson Way, will require an amendment to this permit.

4. Condition Compliance

Within 90 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall implement the proposed amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit shall remain in effect (See Exhibit no. 3)

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

Amend project description requiring 21 preferential short-term public parking spaces along Barnard Way to instead provide 13 of the 21 short-term public spaces at the City's public parking No. 9, on Neilson Way. The City will create 13 new short-term (minimum of 3-hour limits) parking spaces by restriping the public lot.

Lot No. 9 is located approximately one block inland and 700 feet northeast of the current location of the 13 parking spaces. Lot No. 9 currently provides 151 public metered spaces. The metered time limits for the existing parking spaces within Lot No. 9 include approximately 141 three-hour meters and 10 ten-hour meters. The lot operates seven days a week, 24-hours a day.

In November 1984 the Commission approved the City's Ocean Park Beach Improvement Plan (CDP# 5-84-591). The Plan included:

- 1) a 3.5- acre Linear Park along Barnard Way and 21 parking spaces between Crescent Bay Park and the proposed South Park as a continuation of the oceanfront/Palisades Park theme created by reducing Barnard Way to 2 lanes and utilization of the existing landscaped area of the beach parking lot adjacent to Barnard Way;
- 2) expansion of the existing grassy area of the Santa Monica State beach at the foot of Ocean park Blvd. To create a 4-acre Central Park to include shade pavilions with tables and benches, grassy picnic areas, renovated food concession stand and restrooms and a new children's play area;
- 3) a 1.5-acre South Park located at the extreme southward end of the parking lot to include light landscaping, a seating area, a small children's playground and a shoreline accessway for physically handicapped persons; and
- 4) realignment of the existing bike/skate path and pedestrian promenade which extends from Bay Street south to the city limit. Bike/skate traffic will be separated from the pedestrian promenade in the Central Park area. Small plazas and a low seat wall will be located at intervals along the promenade.

The City's proposed 21-parking spaces were approved by the Commission in two locations along Barnard Way. Barnard Way is the first public road paralleling the coast and provides pedestrian and vehicle access to the South Beach Park and to the public "on-site park" (tennis and basketball courts and landscape area) on the inland side of Barnard Way. The first location consisted of 8 spaces on the landward side of Barnard Way, adjacent to the "on-site park" approved under CDP#5-83-002. The remaining 13 spaces were located along the south curve of Barnard Way, on the southern side of the curve, adjacent to a 60-unit low income senior citizen complex approved under CDP #A-318-76 and subsequent amendment #A-318-76A. The 13 parking spaces along the Barnard Way curve is the total number of parking spaces provided along this segment of Barnard Way.

Currently, the 13 parking spaces are not available to the general public. In March 1989, the City created a preferential parking district (Zone P) for resident parking along Barnard Way, at the location where the 13 short-term public parking spaces were approved in CDP #5-84-591.

The zone prohibits public parking anytime. The preferential parking zone was created without the benefit of a Coastal Development Permit.

According to the City the preferential parking zone was created to support the adjacent 60-unit senior citizen residential complex. The senior citizen complex was approved by the Commission in 1980 and constructed in approximately 1982-83. The approved complex provided 31 on-site parking spaces. In approving the project the Commission found that the parking would be adequate to support the type of development proposed. However, due to the limited on-site and limited on-street parking in the immediate area of the senior citizen housing complex there was a significant deficiency of parking in the area.

Because of the parking situation the City is requesting that the required 13 short-term spaces, be relocated to nearby public lot (Lot No. 9). By relocating the short-term public spaces to a new location the existing spaces along the Barnard Way curve will no longer be encumbered by any Commission permit restrictions. It is then the City's intent, through a separate permit application, to request approval of a residential preferential parking district to support the residents of the senior citizen housing complex. The City has concurrently filed a permit application (5-99-051) to establish the parking district, which is currently scheduled for hearing by the Commission.

B. Public Access and Recreation

The City is proposing to relocate or replace 13 short-term public parking spaces from an area adjacent to the beach and the City's South Beach park to an existing public parking lot, located approximately one block inland. One of the strongest goals of the Coastal Act is to protect, provide and enhance public access to and along the coast. The relocation of public parking adjacent to the beach to an area further inland could reduce public access opportunities in the area.

Several Coastal Act policies require the Commission to protect beach and recreation access:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited

to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, or overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252(4):

The location and amount of new development should maintain and enhance public access to the coast by ...providing adequate parking facilities or providing substitute means of serving the development...

In preliminary studies that led to the adoption of the Coastal Act, the Commission and the Legislature reviewed evidence that land uses directly adjacent to the beach were required to be regulated to protect access and recreation opportunities. These sections of the Coastal Act provide that the priority of new development near beach areas shall be given to uses that provide support for beach recreation. The Commission has evaluated these concerns in upland and mountainous areas near the beach to provide coastal viewing and alternatives to the beach for jogging, strolling and cycling. Furthermore, the Commission has consistently addressed both public and private parking issues in order to protect the ability of beach visitors who depend on the automobile to access the beach.

The City's LUP states that the Santa Monica State Beach is the most heavily used beach in Los Angeles County and possibly in the State. The City has estimated that over 20 million people visit Santa Monica's beaches annually (City of Santa Monica's 1992 certified Land Use Plan). In 1998, between July and September approximately 7.5 million people came to Santa Monica beaches (County of Los Angeles Fire Department Lifeguard Division).

The beach area between the Pier and Pico Boulevard is a broad sandy beach and, according to the City's LUP, is the most active recreation-oriented area of the Santa Monica beaches. The area provides volleyball courts, outdoor gymnastic facilities, swings, a children's play area, Pedestrian promenade, and bike path. The Commission recently approved a permit [CDP #5-98-009 (City of Santa Monica)] for the renovation and improvement of this beach area including the recreational facilities and Promenade. The beach area south of Pico Boulevard is the South Beach area. The South Beach is improved with a landscaped beach park, picnic facilities, children's playground, food concessions, restrooms, pedestrian promenade and bike path [CDP #5-84-591(Santa Monica Redevelopment Agency)]. With development of hotels, restaurants, and improvements to the Pier and beach, Santa Monica beach area has been

attracting an increasing amount of visitors from throughout the Los Angeles area and from outside of the region.

Across from the South Beach area is the City's redevelopment area that was approved by the Commission in 1977 (A-318-76; A-318-76-A1; A-318-76-A2; 5-83-002A). The development included 397 condominium units, private amenities, and a 6-acre public park and accessways within a 16.2 acre site bounded by Neilson Way, Barnard Way and Ocean Park Boulevard.

In approving the City's Redevelopment Plan, including the Ocean Park Beach Improvement Plan, the Commission found that short-term street parking was necessary to provide support for the local residents for needed residential parking, and to support the proposed on-site park use and adjacent beach recreational areas. The City also found that short-term parking was important for the area and proposed 21 "preferential short-term spaces" along Barnard Way as part of their project description for CDP#5-84-591.

Although the City's submitted project description, which was reflected in the Commission's staff report, describes the parking as "preferential short-term spaces" neither the City's submittal material or the Commission's staff reports describes the parking as residential preferential or parking exclusively for residential use. The City's application for permit #5-84-591 describes the proposed parking as "short-term" parking. The City described the proposed parking as:

Existing on-street parking is maintained north of Ocean Park Boulevard, while to the south, some 21 short-term, new parking spaces are created—eight adjacent to proposed "on-site park" and 13 at the south area of Barnard Way.

In approving CDP# 5-84-591, the Commission found that the eight parking spaces were necessary to provide short-term support parking for the "on-site park" (CDP #A-318-76) approved on the inland side of Barnard Way. Because the parking was short-term the parking was intended to be used by residents of the community and the general public that would use the on-site park's tennis and basketball courts rather than for beachgoing, which would generally require a longer period of stay.

The 13 parking spaces along the south curve of Barnard Way, were intended to provide short-term parking for both residents and visitors to the adjacent 60-unit senior citizen complex, as well as for coastal recreational visitors. The Commission's staff report for CDP# 5-84-591, states that the construction of additional parking spaces along Barnard Way and Ocean Park Boulevard is to:

Provide short-term parking support within the residential community for the recreational amenities located outside of the State Beach and for short-term coastal recreational visitors.

Although the term “preferential” was used, based on the findings in the previous staff reports, and an absence of a description describing the 21 spaces as exclusively for residential parking, staff concludes that the 21 on-street parking spaces were intended to be short-term spaces to be used by the public, which included inland community residents and beach and recreational visitors.

The City is proposing to relocate the 13 short-term public parking spaces to an existing public lot (Lot No. 9) on Neilson Way. The lot is located approximately one block inland from the current site and approximately 700 feet northeast from the existing parking. The City will create an additional 13 short-term metered (minimum of 3 hour) spaces by restriping the lot to accommodate 13 additional public parking spaces. The lot currently provides 151 metered spaces. Time limits for the existing metered spaces include 141 three-hour meters and 10 ten-hour meters. The lot operates seven days a week, 24-hours a day.

The City contends that relocating the 13 short-term public parking spaces within Lot No. 9 will continue to serve the short-term needs of the public for access to the beach and recreational uses due to the lot’s close proximity to the recreational facilities and to the beach. The Neilson Way lot is approximately 500 and 550 feet from the “on-site park”, located on the landward side of Barnard Way, and from the South Beach linear park. Furthermore, direct access from the Neilson Way parking lot to the “on-site park” and beach area is provided by an existing public accessway that extends from Neilson Way to Barnard Way. Because of the existing public accessway the Neilson Way parking lot provides quick and easy access to the recreational facilities in the area and is currently readily used for parking by beachgoers and recreationalist.

The Commission finds that the City’s proposal to re-allocate the public parking to the nearby Neilson Way lot would adequately provide public parking to support short-term use of the recreational and beach facilities in the area. The location, availability, and cost (rate) of the proposed 13 short-term public parking spaces and the available public access to the beach and recreational facilities of the area is consistent with the Commission’s original intent in approving the provision of short-term parking to support the recreational uses in the area. The relocation of the short-term parking will not adversely impact public access to the beach or coastal recreational areas. However, to ensure that the proposed short-term parking will be maintained and continue to function as short-term public parking, a special condition placing the City on notice, that any change in the time restrictions or days of operation will require an amendment to this permit, is necessary. In addition special conditions No. 1 and 2 require that the City provide plans showing the location of the relocated public parking spaces and that the public spaces will be constructed within 90 days of Commission approval of the permit. The Commission finds that, only as conditioned, will the proposed project with the proposed amendment be consistent with Sections 30210, 30211, 30212.5, 30213, 30214, and 30223 of the Coastal Act of 1976.

C. Unpermitted Development

In 1985 the City approved an ordinance creating the residential preferential parking zone that eliminated short-term public parking. According to the City the restrictions for the zone became effective and enforced by the City in 1986. There are no records of permits issued for this development. Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

The area within the Beach Overlay District was excluded from certification after the voters approved Proposition S which discourages certain types of visitor-serving uses along the beach. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters initiative, the policies of the LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach and did not ensure that development would not interfere with the public's right of access to the sea.

Therefore, the subject site is not included within a certified LCP and the coastal development permit must be issued by the Commission. As conditioned the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Land Use Plan and implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned, is consistent with the applicable policies of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.